

 ORIGINAL

SLR:LDM/TH:CSK
F.#2009R00374

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA

STIPULATION AND ORDER

- against -

CR 10-457 (S-2)

(Mauskopf, J.)

CHRISTOPHER FINAZZO and
DOUGLAS DEY,

Defendants.

- - - - -X

FILED
IN CLERK'S OFFICE
US DISTRICT COURT E.D.N.Y.

★ OCT 16 2012 ★

BROOKLYN OFFICE

WHEREAS, on or about June 11, 2010, the above-captioned indictment was unsealed and a Bill of Particulars for Forfeiture was filed in this district seeking forfeiture of a money judgment, multiple specific properties, and substitute assets including but not limited to all right, title and interest in the Real Property and Premises known as 300 Burman Boulevard, Calverton, New York, designated on the Town of Riverhead, Suffolk County Tax Map as District: 0600, Section: 135, Block: 1, Lot: 025.00, title to which is held in the name of Vertical Line Apparel, Inc. (the Subject Property"), pursuant to 18 U.S.C. 981(a)(1)(C), 28 U.S.C. § 2461(c), and 18 U.S.C. § 982;

WHEREAS, on or about June 25, 2010, the United States filed a Notice of Pendency against, *inter alia*, the Subject Property in Suffolk County;

WHEREAS, on or about September 6, 2011, a Second Superseding Indictment was filed in this district seeking forfeiture of a money judgment, multiple specific properties, and substitute assets, including but not limited to the Subject Property, pursuant to 18 U.S.C. 981(a)(1)(C), 28 U.S.C. § 2461(c);

WHEREAS, the defendants and their entity Vertical Line Apparel, Inc. ("Vertical Line Apparel"), by and through their authorized and undersigned counsel, have represented to the United States that they seek to sell the Subject Property in an arms-length transaction, for fair market value, on or about October 23, 2012, and that the net proceeds (with reasonable expenses, fees, and real estate taxes due and owing having been calculated) are anticipated to be \$1,698,534.99.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, on consent, by and between the United States, the defendants, and Vertical Line Apparel (collectively "the Parties"), as follows:

1. The defendants and Vertical Line Apparel shall be permitted to proceed to sell the Subject Property in accordance with all laws and applicable regulations.

2. At the time of the closing of the Subject Property, currently scheduled to be held on October 23, 2012 at 11:00 a.m. at the Law Offices of Ferro, Kuba, Mangano & Ksylvan, P.C., 825 Veterans Highway, Hapauge, New York 11788 ("Attorney for the Purchaser's Lender"), any and all net proceeds from the sale of the Subject Property, in the amount of approximately \$1,698,534.99, shall be delivered by hand and in the form of a certified or bank check, payable to the "United States Marshals Service, EDNY," with the criminal docket number, CR 10-457 (S-2) (EDNY), noted on the face of the check, along with a copy of all closing documents, including an itemized statement of costs incurred and proceeds generated at the time of the closing, to Senior Inspector Marko Anticev, a designated representative of the United States Marshal Service, Eastern District of New York, or another designated representative of the United States Marshal Service, who shall be present at the closing. In the event such designated representative of the United States Marshal Service is not able to attend the closing, counsel for the Seller shall be responsible for ensuring the certified or bank check made payable to the "United States Marshal Service,

Eastern District of New York" and a copy of all final closing documents are delivered by hand or overnight mail to the Office of the United States Attorney, 271 Cadman Plaza East, 7th Floor, Brooklyn, New York 11201 Att: Claire S. Kedeshian, AUSA.

3. The United States Marshal Service shall deposit said check in an interest-bearing escrow account. Copies of the check and all closing documents shall be delivered to Assistant United States Attorney Claire S. Kedeshian, United States Attorney's Office, Eastern District of New York, 271 Cadman Plaza East, 7th Floor, Brooklyn, New York 11201.

4. These funds shall be held by the United States Marshals Service pending further order of this court.

5. In no event shall the United States be held responsible for any cost, expenses, or fees associated with the Subject Property, regardless of whether it is sold. The defendants and Vertical Line Apparel alone shall be responsible for all expenses, costs, and fees for the Subject Property, including, but not limited to, maintenance and the payment of any taxes, penalties and interest, owed.

6. This Stipulation and Order is intended solely to permit the sale of the Subject Property and to permit any and all net proceeds to remain in the custody of the United States Marshals Service pending a final resolution of the forfeiture

allegations as to the Subject Property and the other forfeitable properties and assets alleged in the Indictment in this pending criminal action. The net proceeds shall remain available for forfeiture in this pending criminal action as a substitute for the Subject Property.

7. In exchange for the foregoing, the United States shall release the Notice of Pendency filed against the Subject Property. The release shall be given to the Attorney for the Sellers and held in escrow until the closing. In the event that the closing does not proceed, the Attorney for the Sellers shall return the release to the undersigned counsel for the United States and shall destroy any copies.

8. In further consideration of the above, the defendants and Vertical Line Apparel agree to release, remise, and forever discharge the United States and its agencies, agents, officers, and employees, past and present, from all claims or causes of action which defendants and Vertical Line Apparel ever had, now has, or hereafter may have against the United States, its agencies, agents, officers, and employees, past and present, with respect to the sale of the Subject Property.

9. In further consideration of the above, the Defendants and Vertical Line Apparel agree that they shall hold the United States and its agencies, agents, officers, and employees, past and present, harmless from any claims or suits brought by any persons or entities concerning, referring or relating to the sale of the Subject Property.

10. The defendants and Vertical Line Apparel represent that no other party holds an interest in the Subject Property, and that they are fully authorized to execute this Stipulation and Order and all other documents necessary to effectuate the sale of the Subject Property as contemplated herein.

11. The Court shall retain jurisdiction over this action to effectuate the terms of this Stipulation and Order.

12. This Stipulation and Order constitutes the entire agreement between the parties with respect to the Subject Property and may not be modified or amended except by written agreement executed by each of them.

13. The Clerk of Court shall docket, file and forward three (3) certified copies of this Stipulation and Order to the

United States Attorney's Office, 271 Cadman Plaza East,
Brooklyn, New York 11201.

Dated: Brooklyn, New York
October 10, 2012

LORETTA E. LYNCH
United States Attorney
Eastern District of New York
271 Cadman Plaza East
Brooklyn, New York 11201

By: Claire S. Kedes
Claire S. Kedes
Assistant U.S. Attorney
(718) 254-6051

Dated: New York, New York
October 5, 2012

Curtis, Mallet-Prevost, Colt
& Mosle, LLP
Attorney for defendant
Douglas Dey, individually and
as Co-Director and Shareholder of
Vertical Line Apparel
101 Park Avenue
New York, New York 10178-0061

By: T. Barry Kingham
T. Barry Kingham, Esq.
(212) 696-6046

Dated: New York, New York
October 5, 2012

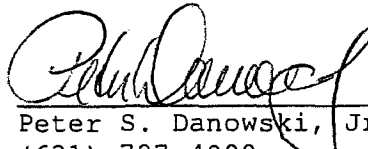
Carter Ledyard & Milburn
Attorney for defendant
Christopher Finazzo,
individually and as Co-
Director and Shareholder of
Vertical Line Apparel
2 Wall Street
New York, New York 10005

By: Robert J.A. Zito
Robert J.A. Zito, Esq.
(212) 782-3200

Dated: Riverhead, New York
October 9, 2012

Law Offices of
Peter S. Danowski, Jr. Esq.
616 Roanoke Avenue
Riverhead, New York 11901
Counsel for Sellers, Dey,
Finazzo and Vertical Line
Apparel, Inc. of Subject
Property

By:


Peter S. Danowski, Jr., Esq.
(631) 727-4900

SO ORDERED: on this 11th day of
October, 2012

s/Roslynn R. Mauskopf

HONORABLE ROSLYNN R. MAUSKOPF/
UNITED STATES DISTRICT JUDGE
EASTERN DISTRICT OF NEW YORK